Colorado Department of Public Health and Environment Health Facilities & Emergency Medical Services Division Policy Manual			Section: Part:
Subject: POLICY INTERIM POLICY: FITNESS REVIEWS			Page:
Date: 15 May 2005 April 20, 2011	oReplacement Page(s) oAddition of Page(s) oNew Section	Of Part To Part	

SUMMARY

This policy establishes an interim policy for conducting fitness reviews in a manner that is achievable within the Department's existing Licensure Program budget.

STATUTORY AND REGULATORY BASIS

§25-3-102(1), Colorado Revised Statutes; and, 6 C.C.R. 1011-1, Chapter II, Paragraphs 2.8, 2.11 and 2.12.1.

APPLICABILITY

This policy is applicable to all health care entity types.

BACKGROUND & PURPOSE

- 1. Pursuant to statute and regulation, the Department is required to conduct an applicant fitness review prior to issuing a new license, renewal license or a license requesting a change or modification to an existing license. The Department may conduct a fitness review of relevant persons or entities. Specifically, §25-3-102 (1), Colorado Revised Statutes provides:
 - "(1) The department shall issue licenses to applicants furnishing satisfactory evidence of fitness to conduct and maintain a facility described in section 25-3-101 in accordance with the provisions of this part 1 and the rules and regulations adopted by such department."
- 2. Pursuant to regulation, the Department has the right to access the premises of any licensee to determine the state of compliance with the law and regulations as set forth at 6 C.C.R. 1011-1, Chapter II, Paragraph 2.11.1:
 - 2.11.1 The Department and any duly authorized representatives thereof shall have the right to enter upon and into the premises of any licensee or applicant for a license in order to determine the state of compliance with the law and regulations, and shall initially identify themselves to the person in charge of the health care entity at the time.
 - (A) In accordance with section 25-1.5-103 C.R.S., routine unannounced onsite inspections shall be made only between the hours of 7 a.m. and 7 p.m."
- 3. Department regulations establishing mandatory components of a fitness review are set forth at 6 C.C.R. 1011-1, Chapter II, Paragraphs 2.8, 2.11.3 and 2.12.1:
 - "2.8 Fitness Review Process
 - 2.8.1 The Department shall review the applicant's fitness to conduct or maintain a licensed operation. The Department shall determine by on-site inspection or other appropriate investigation the applicant's compliance with applicable statutes and regulations. The

Department shall consider the information contained in an entity's application and may request access to and consider other information including, but not limited to, the following:

- (A) Whether the applicant has legal status to provide the services for which the license is sought as conferred by articles of incorporation, statute or other governmental declaration.
- (B) Whether the applicant's financial resources and sources of revenue appear adequate to provide staff, services, and the physical environment sufficient to comply with the applicable state statutes and regulations; including, if warranted, review of an applicant's credit report, Whether the applicant's board or directors, management, employees, management company, consultants and other operational parties are of good moral character and demonstrate sound judgment in the operation of the business;
- (C) The applicant's previous compliance history,
- (D) Review of the applicant's policies and procedures,
- (E) Review of the applicant's quality improvement plans, other quality improvement documentation as may be appropriate, and accreditation reports,
- (F) Physical inspection of the entity,
- (G) Credentials of staff,
- (H) Interviews with staff, and
- (J) Other documents deemed appropriate by the Department."
- "2.11.3 The Department may use the following measures to ensure a licensee's full compliance with the applicable statutory and regulatory criteria.
 - (A) Unscheduled or unannounced reviews.

The Department may conduct an unscheduled or unannounced review of a current licensee based upon, but not limited to, the following criteria:

- (1) Routine compliance inspection,
- (2) Reasonable cause to question the applicant's continued fitness to conduct or maintain licensed operations,
- (3) A complaint alleging non-compliance with license requirements,
- (4) Discovery of previously undisclosed information regarding a licensee or any of its owners, officers, managers or other employees if such information affects or has the potential to affect the licensee's provision of care, or
- (5) The omission of relevant information from documents requested by the Department or indication of false information submitted to the Department.
- "2.12.1 The Department may deny an application for an initial or renewal license for reasons including, but not limited to the following:
 - (A) The applicant has not fully complied with all local, state and federal laws and regulations applicable to that license category or classification,
 - (B) The application or accompanying documents contain a false statement of material fact.
 - (C) The applicant fails to respond in a timely manner to Departmental requests for additional information,
 - (D) The applicant refuses any part of an on-site or off-site inspection,
 - (E) The applicant fails to comply with or successfully complete an acceptable plan of correction,
 - (F) The results of the fitness review and/or background check reveal issues that have harmed or have the potential to harm the health or safety of the individual(s) served,

- (G) The applicant has failed to cooperate with the investigation of any local, state or federal regulatory body, or
- (H) The applicant is not in compliance with regulatory requirements or has a documented pattern of non-compliance that has harmed or has the potential to harm the health or safety of the individual(s) served."
- 4. Under the above authority, as part of its fitness review, the Department also considers whether an applicant or licensee's board or directors, management, employees, management company, consultants and other operational parties are of good and responsible character, demonstrate sound judgment in the operation of the business, are in compliance with regulatory requirements and do not have a documented pattern of non-compliance that has harmed or has the potential to harm the health or safety of individual(s).
- 5. The Department recognizes that conducting fitness reviews is an important means of insuring that individuals and business entities that apply for or are licensed to operate and maintain a health facility possess the necessary competence, resources and character. The Department allocates limited resources in a manner that best serves the goal of protecting Colorado health care consumers and that is achievable within the Department's existing Licensure Program budget.

6. It is the Department's intent to review and revise this policy to maintain consistency with future budgetary modifications and as future developments dictate.

Approved by:

Howard Roitman Division Director

Health Facilities and Emergency Medical Services

Division

Department of Public Health and Environment